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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/522,232	07/08/2005	Bradley Mccoll	029065.51433US	1644

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EXAMINER
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SAOUD, CHRISTINE J

ART UNIT	PAPER NUMBER
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1647

MAIL DATE	DELIVERY MODE
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07/16/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/522,232	<b>Applicant(s)</b> MCCOLL ET AL.	
	<b>Examiner</b> Christine J. Saoud	<b>Art Unit</b> 1647	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 16 April 2007.
- 2a) ☐ This action is **FINAL**.      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-10 and 14-17 is/are pending in the application.
- 4a) Of the above claim(s) 6-10 and 15-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>7/8/05</u> | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election of Group I, claims 1-5 and 14 in the reply filed on 16 April 2007 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claims 6-10 and 15-17 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 16 April 2007.

### ***Drawings***

New corrected drawings are required in this application because they fail to comply with 37 CFR 1.84(u)(1) which requires that "partial views intended to form one complete view, on one or several sheets, must be identified by the same number followed by a capital letter". The Figures which refer to subparts all use lower case letters instead of the required capital letters. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Applicant should note that the specification must also be amended to comply with the drawing requirement and refer to the figures using the same number followed by a capital letter. See at least pages 7-8. Correction is required.

***Information Disclosure Statement***

The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

The information disclosure statement (IDS) submitted on 08 July 2005 has been considered by the examiner.

***Specification***

The disclosure is objected to because of the following informalities: page 4 of the specification is of such poor quality, it impedes examination. Applicant should submit a clean copy of these page and request it to replace the page which is smudged.

Appropriate correction is required.

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention **to which the claims are directed**. (i.e. the claims are not directed to inhibiting VEGF-C or VEGF-D).

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 14 is rejected under 35 U.S.C. 102(b) as being anticipated by Eibl et al. (U.S. Pat. No. 5,520,912).

Eibl et al. disclose pharmaceutical compositions comprising plasmin (see column 5, lines 8-9) as well as teaching the inclusion of pharmaceutically acceptable carriers (see column 8, lines 18-42). Claim 14 includes intended use language, however, the use of the composition does not place any material limitations on the composition itself. Therefore, Eibl et al. anticipate the claimed invention.

Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Stacker et al. (J. Biol. Chem. 274(45): 32127-32136, 1999).

Claims 1-4 are directed to a method of activating VEGF-D by treating the VEGF with a serine protease. However, the claim limitation of treating does not necessarily convey that an exogenous protease was added to a culture or an individual. Stacker et al. teach that VEGF-D expressed in 293EBNA cells is proteolytically processed, and thereby activated. This appears to meet the limitations of the instant claims.

Claims 1-3 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Enholm et al. (TMC 8(7): 292-297, 1998).

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Claims 1-3 and 5 are directed to a method of activating VEGF-C by treating the VEGF with a serine protease. However, the claim limitation of treating does not necessarily convey that an exogenous protease was added to a culture or an individual. Enholm et al. teach that VEGF-C expressed in vitro is proteolytically cleaved by proteases to release the active soluble form of the protein. Even though the protease is not exogenously added, the protein is clearly treated with the protease and activated. This appears to meet the limitations of the instant claims

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christine J. Saoud whose telephone number is 571-272-0891. The examiner can normally be reached on Monday-Friday, 6AM-2PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Nickol can be reached on 571-272-0835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CHRISTINE J. SAOUD  
PRIMARY EXAMINER

*Christine J. Saoud*